

DRAFT

**BDAC Ecosystem Restoration Work Group  
Meeting Summary  
April 30, 1997**

The twelfth meeting of the BDAC Ecosystem Work Group was held on Wednesday April 30, 1997 at the Resources Building from 9:00 a.m. to noon.

*(Some attendees who arrived late and/or who did not sign in are not listed below)*

BDAC Members present were:

Mary Selkirk, Chair	Tib Belza	Ann Notthoff
Marcia Brockbank		

Invited Participants of the Work Group present were:

Karen Levy	Bruce Herbold	Gary Bobker
Steve Ford	Tom Zuckerman	Nat Bingham
Buford Holt	Sally Shanks	Pete Chadwick
Pete Rhoads	Frank Wernette	

CALFED Staff/Consultant Team present were:

Sharon Gross	Dick Daniel	Greg Young
Ray McDowell	Jim Martin	Jean Elder

Other Participants included:

Dan Fults	John Winther	Serge Birk
Nicole Sandkulla	Rich Reiner	Joe Miyamoto
Lance Johnson	Dan Craig	John Kopchik
Marti Kie	Diane Hinson	Roger Masuda
Michael Gutierrez	Audrey Tennis	Nancy Schaefer
Wayne Sawka	John Mills	Anthony Barkett
Brenda Johnson		

Two documents were distributed at the meeting: 1) a memo outlining the proposed Scientific Review Panel process, and 2) a stakeholder letter regarding the review process.

Mary Selkirk, the Work Group chair, opened the meeting and reviewed the agenda. The meeting included an overview of the April 8 Ecosystem Restoration Program Plan (ERPP) workshop, discussion of the Scientific Review Panel process and potential questions, and further discussion of assurance issues.

## **ERPP Workshop**

Dick Daniel gave an overview of the recent ERPP workshop held on April 8. He stated that only the ERPP Executive Summary was distributed at the meeting. Some individuals expressed disappointment that the entire ERPP was not yet available for review. Several specific comments and concerns were expressed by workshop participants including concern about use of the term "natural flow". CALFED staff will explore options for using different terminology to replace the term "natural flow" while still maintaining the intended meaning. CALFED staff have been meeting with stakeholder groups to gain more specific technical input to the ERPP. Meetings have been held with interests on the Mokelumne River and meetings are planned with groups on the American and San Joaquin tributary rivers. Comments at the workshop also included requests to consolidate all of the monitoring that may occur under the CALFED Program into one large or easily identifiable program. This would include water quality monitoring as well as monitoring for exotic species. The proposed schedule for release of the remaining portions of the ERPP is as follows:

- Volume 1 - released to public in mid-May (on-track to occur as scheduled)
- Volume 2 - released to public in mid-June (on-track to occur as scheduled)
- Volume 3 - released to public in mid-June (comfortable with ability to stay on schedule)

Release of Volume 3 in mid-June would trigger a 45-day review period allowing a substantial larger amount of time for review of Volumes 1 and 2.

A question was raised as to how this schedule fits into the draft Programmatic EIR/EIS schedule. Dick responded that the impact analysis that is set to begin will use the foundation material in Volume 1. There is enough foundation material available now to allow for a programmatic level analysis to occur concurrent with review and revision of the ERPP. With regard to the preferred alternative, the ecosystem common component, represented by the ERPP, is relatively constant alternative to alternative. Only minor variations would occur with the location or amount of habitat restoration for each alternative.

Some frustration was expressed by stakeholder representatives at waiting another 60 days to receive the entire draft ERPP. There was also frustration that the process has not been highly participatory and stakeholders don't have a clear idea of what is in the document. Stakeholders also indicated that depending on the content of the ERPP, 45 days may not be sufficient to perform an adequate review. Other stakeholders felt that it was their responsibility to staff-up and be ready to try to meet the CALFED schedule. Most participants acknowledged that they will have to wait until they see the ERPP before deciding if they will require more time for review. Some participants also remarked that they want to be sure that CALFED has adequate time to respond to the concerns they raise in their comments. Dick reminded the Work Group

participants that the ERPP is not final until fall of 1998 when the EIR/EIS is certified. There will still be ample time to keep reviewing and revising.

Concerns were also expressed about the specific ERPP details and ERPP interactions with other CALFED components. Concern was also expressed regarding possible unnecessary levels of impact to existing Delta agriculture and recreation interests. Analysis may be so broad brush that site-specific problems may not be captured at the programmatic level and may never have the opportunity to be discussed in the public forum.

Dick stated that he is looking for feedback on the targets in the ERPP Executive Summary and is willing to meet with stakeholders now to begin discussing issues and concerns. There may be a need for a public process to build a level of comfort among stakeholders on how CALFED is incorporating issues and concerns.

### **Scientific Review of ERPP**

Kate Hansel gave an overview of the process as currently envisioned for the scientific technical review of the ERPP. CALFED is utilizing both this Work Group and a small steering committee of agency staff to structure the process. A letter was received by CALFED from several stakeholders, which is in agreement with the process as structured with the exception of stakeholders suggesting multiple workshops. The current format proposed by CALFED includes only one workshop due in part to time and resource constraints.

Kate stated that the objective of the scientific review is to assess and evaluate the scientific validity and rationale of the hypothesis and implementation objectives embodied in the ERPP. The workshop is currently planned to be facilitated and interactive. The proposed format is to establish a team of technical advisors who are knowledgeable about the Bay-Delta system, its attributes, and its complexities. This advisory group would be able to answer questions of the panel as needed. The current format has the workshop spread over 4 days.

A question was raised as to who will chair the group of panelists. The current thought is to have one or two of the panelists chair the panel.

The issue of public involvement in the process was also raised. Some feel strongly that the actual deliberations need to be maintained as a separate process from public input. This concern is based on the possibility of public input and questions, probably biased toward specific interests, dominating the deliberation, instead of the panelists' discussion. Several Work Group members felt it was important to allow stakeholders to be involved in the majority of the deliberations to be able to understand the outcome. One way to do this is to allow the deliberations to be open to the public for observation only. The amount of public involvement should be determined before selection of panelists because some panelists may not want to participate under certain formats. It was also suggested that an observation only audience could

be provided with 3x5 cards to write down questions as they listen to the panel deliberations. These questions could be summarized and presented to the panel at a specific time for review. Several Work Group members felt that these suggestions may provide appropriate access by the public to the review process.

It was also suggested by many members that there also be a "human component" available at the deliberations to provide insight into some of the complex relationships of the system with humans and ecosystem.

Another suggestion was that the activities slated for the first day could occur a few weeks before the workshop and panel deliberations. This would allow panelists to better digest information and think about the issues and questions.

Concern was also expressed about using outside facilitation. Some felt that the types of people who are asked for this type of panel generally do not work well with an outside facilitator. Scott McCreary, a professional facilitator with Concur, stated that this type of process has successfully been facilitated in the past and that he recommends outside facilitation. This is a primary function of his company and they have been very successful in facilitating similar scientific panels. It was suggested that, depending on who is selected, the panelists could be asked if they want to facilitate themselves or if they would rather somebody else. Another option was using a panelist and a professional facilitator as a team.

A recommendation was made to select a balanced advisory team in the same fashion being used for panelist selection. There needs to be a diverse group of advisors. Information provided to the panelists should only be technical and unbiased in nature.

A question was raised as to who is currently on the list of potential panelists. Kate responded that a list of preliminary candidates has been compiled. CALFED staff stated that it would select panelists based on the input from stakeholders. It was suggested that the panelists include anthropologists, economists, and sociologists, not just biologists. The panel should also include someone with expertise in resource management. This may capture some of the human side of the issue.

### **Panel Questions**

The primary platform for review will be Volume 1 of the ERPP. This contains the objectives and hypothesis which should be the focus of the review. It was noted that one key issue is that CALFED does not want the panelists to get bogged down in details.

The first five questions are fairly broad and are intended to capture some of the overriding questions regarding objectives and hypothesis. Work Group members were asked to look closely

at these as well as the other questions drafted. Some stated that it is very difficult to develop questions at this time when it is unknown what is included in the ERPP.

A request was made to set up an e-mail site so stakeholders could have access to information submitted by other stakeholders. Concern was expressed about the limited time frame under which to try and develop questions. It was felt that stakeholder input on the formulation of the questions was critical. It was suggested that everyone submit no more than 10 questions plus provide comments on existing questions back to CALFED as soon as possible. These could be presented back to the entire Work Group again at the May meeting.

Sharon Gross asked for suggested questions by next week in order to facilitate presentation to the CALFED Policy Group meeting on May 13. Questions brought to the Policy Group meeting would only be to let the Policy Group get a feel of the direction and purpose of the peer review process. There would still be time to further develop questions. E-mail discussions are to be sent to Sharon's mailbox at [sgross@water.ca.gov](mailto:sgross@water.ca.gov) with a subject title of "Scientific Peer Review". Material e-mailed to this address will be forwarded to those who provided their e-mail addresses at the meeting.

### **Assurances**

Mary Selkirk reviewed what was discussed at previous meetings regarding assurances and restated that the Assurances Work Group had requested this Work Group to formulate its thoughts on assurances. Gary Bobker has written a memo which articulated many ideas and his memo was included with the Work Group mailout prior to this meeting. This Work Group may not be ready to address specific assurance issues, but we need to make sure we have covered all the aspects that may need assurances. Mary stated that there may be a need to have a joint meeting with the Assurances Work Group at a later time.

In general, it was felt that adaptive management assurances need broad stakeholder support, financial certainty and effective monitoring in order to be lasting. It was expressed by one stakeholder that assurances should not focus on institutional issues, but focus on a system that has parallel incentives (i.e., win-win). It was felt that CALFED should stay away from "us versus them" assurances. There needs to be ways to assure participation from all sides.

Several participants felt that a restoration process must have certain expectations. When those are met, interested parties can reconvene and re-evaluate where to make adjustments, if necessary. However, it was felt that institutional processes are still a vital part of a resilient solution.

One issue of importance is how the scientific based monitoring and data collection will be translated. How is this structured, how is it facilitated? We need to assure that small issues do

not bring the whole process to a halt. Assurances must provide a process which maintains the larger perspective and has the ability to make minor adjustments when needed..

We should not always have to rely on regulatory backstops, but rather develop an entity that has the environment's interest as its focus. This would be no different than what already exists for urban and agricultural interests. The environment needs a more cohesive and equal voice. It was felt that there needs to be mechanisms that act to absorb small changes without having to wait to make large, drastic changes.

Some felt that there needs to be a degree of certainty for human uses in any adaptive management assurance package.

Some water users argued that they need strong assurances that if they make changes, whether management or structural, they will not be held accountable indefinitely. It was stated that it could not be conceived that water users, taxpayers, and the government would submit themselves to spending money over a long-period with no assurance of indemnification. Others felt that indemnification is impossible when adaptive management mechanisms are used. An example of a solution used in the Everglades was offered. This model set a time frame (10 years) under which criteria remained static. At the conclusion of that time period, the interested parties will re-evaluate the criteria. There are many other models that can be looked at that find a compromise between the need for some level of indemnification and a need to adaptively change.

The main point of an assurance measure, it was stated, is to develop a process that can affectively deal with changing conditions without holding particular interest always at fault. A process that can share the burden of change.

### **Next Meeting**

The next meeting is scheduled for:

- May 28, 1997 (from 9 a.m. to noon)

This meeting will include further discussion of questions to be addressed by scientific review panel and on assurance needs.